

Remarks

The Examiner rejected claims 1-3 and 5-15 as being anticipated under 35 USC § 102 by U.S. Patent No. 5,843,268 to Lyden ("Lyden"). The Examiner rejected claims 1-3, 5-8, and 11-15 as being anticipated under 35 USC § 102 by or U.S. Patent No. 6,237,249 to Aguerre ("Aguerre"). The Examiner rejected claims 1 and 5-16 as being anticipated under 35 USC § 102 by or U.S. Patent No. 5,024,007 to Dufour ("Du-Four"). Based on the foregoing amendments and following remarks, Applicant submits these rejections should be withdrawn.

All claims relate to a first material having a main support extending in a generally longitudinal direction and a plurality of extensions extending laterally from the main body. The claims also relate to a second material with a plurality of sections, each section being spaced apart by at least one extension placed between each section and an adjacent section. Each section is also encompassed by the first material, which has a higher modulus of elasticity than the second material. The claims also relate to the first material extending from a top surface to a bottom surface of the sole, from a top surface to a location between the top and bottom surfaces of the sole, and from a bottom surface to a location between the top and bottom surfaces of the sole in various localized areas of the sole. As stated in the specification, partially extending first material through the sole controls costs and flexibility.

Neither Lyden, DuFour, nor Aguerre relates to a shoe with rigid and flexible materials, where the flexible material extends from a top surface to a bottom surface of the sole, from a top surface to a location between the top and bottom surfaces of the sole, and from a bottom surface to a location between the top and bottom surfaces of the sole in various localized areas of the sole.

Lynden and DuFour teach elastic material penetrating all the way through the outsole but not to a location between the outer surfaces of the outsole. Lynden and DuFour lack all other limitations recited in Applicant's claims, such as each section of the second material being encompassed by the first material, and therefore the rejections under 35 USC 102 should be withdrawn.

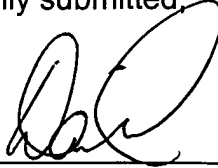
Aguerre teaches outsole material set into recesses in the midsole that extend from the bottom surface to a location between the midsole's outer surfaces. However, Aguerre teaches away from any other embodiment, such as the outsole material extending from the top surfaces toward the bottom surface of the midsole because outsole material is made to be on the bottom of the midsole. Placing outsole material on the top surface of midsole would defeat the purpose of having any outsole material at all. Moreover, since outsole material is for resisting wear, having it penetrate all the way through the midsole is against the benefits of the embodiment taught in Aguerre, which is to lighten the shoe by minimizing outsole material and keep the shoe flexible by utilizing more midsole material. By having the outsole material penetrate all the way through the midsole would make the shoe heavier and less flexible, which is the opposite goal of Aguerre. Therefore, the rejections under 35 USC 102 with respect to DuFour should be withdrawn.

The Examiner rejected claims 1 and 4-19 as being unpatentable under 35 USC § 103 over U.S. Patent No. 4,309,376 to Ueno ("Ueno") in view of either Aguerre, U.S. Patent No. 5,862,614 to Koh ("Koh") or U.S. Patent Publication No. 2002/0116843 to Harrison ("Harrison"). Because the amendments recite the first and second materials being different, the rejections under 35 USC 103 should be withdrawn.

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Response to Official Action

Based on the foregoing, Applicant's submit that all claims are allowable and that all rejections be withdrawn.

Respectfully submitted,



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